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### **REMARKS**

#### **I. Election/Restrictions**

Applicants' provisional election with traverse of Group II, claims 17-33, on 9/20/04 is hereby confirmed.

#### **II. Claim Rejections – 35 USC § 112**

Claims 17-33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. By the amendments made herein to the claims, Applicants submit that the claims as presently presented comply with 35 U.S.C. 112, second paragraph, and the rejection should be withdrawn.

#### **III. Claim Rejections – 35 USC § 102**

Claims 17-19, 22-24, 26, and 28-31 are rejected under 35 U.S.C. 102(e) as being anticipated by Snell (US 6,249,705). Applicants respectfully traverse.

Snell is characterized as disclosing a remote data center, a programmer, and a PDM. However, both the programmer and the PDM are identified as being the same type of device, which Snell labels as a "Network Programmer." Snell discloses only a distributed system of network programmers for use with implantable medical devices. Snell does not disclose a hand-held PDM connected to the programmer for data transfer into and out of the programmer.

The contention is made at page 4 of the office action that the network programmer functions as a PDM since a physician can allegedly use it to transfer data to and from other programmers. However, there is no support cited in Snell for such a characterization. In fact, the disclosure suggests that the network programmers communicate with the network server only (col. 4, lines 45-47). Moreover, the network servers are indicated as performing "only limited functions." (col. 5, lines 18-21.) The functions performed are identified in col. 6, line 66 to col. 7, line 55. None of the functions indicates that a network server can

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transfer data into and out of another programmer. In a typical scenario, as described in col. 8, lines 4-10, it is stated that the physician performs a pacemaker follow-up wherein the programmer performs interrogation and programming functions only.

The characterization of the network programmer in Snell as a PDM is totally without basis, and the rejection of the claims based thereon is consequently without basis also.

#### **IV. Claim Rejections – 35 USC § 103**

Claims 20, 21, 25, 27, 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Snell as applied to claims 17-19, 22-24, 26, and 28-31 above. Inasmuch as this obviousness rejection is dependent upon the contention that Snell discloses a PDM, the rejection is without basis and should be withdrawn for the same reasons as the anticipation rejection should be withdrawn. Therefore, Applicants incorporate by reference their above arguments with respect to Snell.

#### **V. Conclusion**

Based upon the amendments to the claims and the foregoing remarks, Applicants submit that all claims distinguish over the cited reference of Snell and are not anticipated by nor obvious from Snell. Applicants request that a notice of allowance be issued in due course.

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Respectfully submitted,

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12/23/04  
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